

UNITED STATES DISTRICT COURT  
FOR THE  
MIDDLE DISTRICT OF PENNSYLVANIA

PAUL LEE,

Plaintiff,

v.

UNITED STATES OF AMERICA; and,  
FEDERAL BUREAU OF PRISONS,

Defendants.

1:00-cv-0486

(Judge Kane)

DEC 1 2000

MOTION FOR LEAVE TO AMEND COMPLAINT

AND NOW COMES the Plaintiff, Paul Lee ("Lee"), pro se, and moves this Court for leave to amend the Complaint:

1. Lee filed this instant action asserting negligence claims against the United States in accordance with 28 USC §2671, et seq.

2. The suit also attempts to state a Bivens action for not treating Lee's hip problem. Specifically, Lee is in need of hip replacement surgery and, despite knowing that Lee will continue to be incarcerated for a long period of time, staff are attempting to delay the procedure.

3. Rather than a Bivens action, Lee should be seeking an order of mandamus in accordance with 28 USC §1361. §1361 allows actions to proceed against federal agencies to compel them to do their duty. As shown by the attached proposed Amended Complaint, Lee has stated a prima facie claim under 28 USC §1361.

4. Therefore, leave should be granted to amend the Complaint. Lee notes that he would have filed an Amended Complaint pursuant to F.R.Cv.P. 15(a), but the defendants have filed a motion for summary judgment without a brief.

WHEREFORE, Plaintiff requests that this Court grant leave to file the attached Amended Complaint. A proposed Order is attached hereto.

Respectfully submitted,

By: 

Paul Lee  
Box 2000  
White Deer, PA 17887

PLAINTIFF